

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ROBIN HOUSTON,	:	
	:	
Plaintiff	:	
	:	CIVIL ACTION
v.	:	FILE NO. 1:13-CV-00206-TWT
	:	
PUBLIX SUPER MARKETS, INC.,	:	
	:	
Defendant	:	

**PUBLIX SUPER MARKETS, INC.’S
MOTION FOR SUMMARY JUDGMENT**

Defendant Publix Super Markets, Inc. (“Publix”) pursuant to Federal Rule of Civil Procedure 56, moves this Court for an Order granting it summary judgment. For the reasons more fully demonstrated in the Memorandum accompanying this Motion and all other matters of record, this case involves a slip and fall by the plaintiff Robin Houston. On July 24, 2012, Ms. Houston entered Publix store 1054 in McDonough, Georgia and later slipped in aisle 13, the dairy aisle.

Under well established Georgia law, Publix is entitled to summary judgment because it exercised reasonable care and had inspected the dairy aisle on multiple occasions within the twenty-five minutes prior to the slip, including an inspection four minutes before the slip. Moreover, regardless of any inspection, there is no evidence that the alleged water (clear liquid) was easily visible and

removable. Despite inspections before and after the slip, no water was found. Also, numerous other customers did not have any difficulty traversing the dairy aisle, including four persons who stepped in the exact same spot as where the plaintiff slipped. Further, the bread vendor, who was working in the aisle for ten to twelve minutes before the slip, did not see any water and had no difficulty walking in the aisle.

Notwithstanding that only the Plaintiff claims that there was water in the aisle that caused her slip, she states that the water was in her mind, easily visible. Thus, based on the Plaintiff's testimony she had at least knowledge equal to that of Publix (indeed based on her testimony, the Plaintiff had superior knowledge) of the alleged water. The Plaintiff Robin Houston was in aisle 13 for at least fifty seconds before she slipped. Ms. Houston was standing by herself in the aisle at 7:53:25 - fifty seconds before she slipped at 7:54:15. She then walked toward the rear of the store and had an unobstructed, as well as undistracted view of the floor prior to her slip. Because the Plaintiff claims the liquid "was pretty easy to see" and Publix did not have constructive knowledge of the water, Publix is entitled to summary judgment.

Accordingly, summary judgment should be granted to Defendant Publix Super Markets, Inc.

FAIN, MAJOR & BRENNAN, P.C.

BY: /s/ Richard W. Brown

GENE A. MAJOR

Georgia State Bar No. 466650

RICHARD W. BROWN

Georgia State Bar No. 089279

Attorneys for Publix Super Markets, Inc.

100 Glenridge Point Parkway
Suite 500
Atlanta, Georgia 30342
(404) 688-6633

CERTIFICATION

Pursuant to L.R. 7.1(D) N.D.Ga., I certify that this document has been prepared in Times New Roman Font 14 point, as approved by the Court in L.R. 5.1B, N.D.Ga.

FAIN, MAJOR & BRENNAN, P.C.

BY: /s/ Richard W. Brown

RICHARD W. BROWN

Georgia State Bar No. 089279

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ROBIN HOUSTON,	:	
	:	
Plaintiff	:	
	:	CIVIL ACTION
v.	:	FILE NO. 1:13-CV-00206-TWT
	:	
PUBLIX SUPER MARKETS, INC.,	:	
	:	
Defendant	:	

CERTIFICATE OF SERVICE

I hereby certify that on the this date, I electronically filed the foregoing
**PUBLIX SUPER MARKETS, INC.'S MOTION FOR SUMMARY
JUDGMENT** with the Clerk of Court using the CM/ECF system which will
automatically send e-mail notification of such filing to all attorneys of record.

This 28th day of October, 2014.

FAIN, MAJOR & BRENNAN, P.C.

BY: /s/ Richard W. Brown
RICHARD W. BROWN
Georgia State Bar No. 089279
Attorney for Publix Super Markets, Inc.

100 Glenridge Point Pkwy., Ste. 500
Atlanta, Georgia 30342
(404) 688-6633
rbrown@fainmajor.com